

E-101, E-002/SA-88-179 (E62-01) E-002,E101/SA-88-514DENYING APPLICATION FOR REHEARING OF COOPERATIVE POWER ASSOCIATION

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Barbara Beerhalter	Chair
Cynthia A. Kitlinski	Commissioner
Norma McKanna	Commissioner
Robert J. O'Keefe	Commissioner
Darrel L. Peterson	Commissioner

In the Matter of the City of White Bear Lake's
Request for an Electric Utility Service Area
Change Within its City Limits

ISSUE DATE: December 7, 1988

DOCKET NOS. E-101, E-002/SA-88-179
(E62-01)

In the Matter of the Petition of Northern
States Power Company for an Electric Utility
Service Area Change Within the City of
White Bear Lake

E-002, E-101/SA-88-514

ORDER DENYING APPLICATION FOR
REHEARING OF COOPERATIVE POWER
ASSOCIATION

PROCEDURAL HISTORY

On September 22, 1988 the Commission issued an Order changing the assigned service areas of Northern States Power Company (NSP) and Anoka Electric Cooperative (Anoka) to allow a portion of the City of White Bear Lake to be transferred from Anoka's assigned service area to NSP's. The Commission took this action at the request of the City, which stated the transfer would expedite its development plans for the area.

Anoka, the Department of Public Service, and the Cooperative Power Association (CPA or the Association) sought reconsideration or rehearing of the matter. On October 27, 1988 the Commission issued an Order Granting Petitions for Reconsideration. As the Order explained, the petitions were granted on a preliminary basis to prevent their automatic denial under Minn. Stat. § 216B.27, subd. 4 (1986), which provides that any application for rehearing not granted within 20 days of filing is deemed denied. The Commission deferred substantive review of the petitions pending an opportunity for their careful examination.

The petitions came before the Commission on November 16, 1988. NSP challenged CPA's petition on grounds that the Association had not been a party to the proceeding and did not have a sufficient interest in its outcome to request rehearing.

FINDINGS AND CONCLUSIONS

The Commission will deny the Association's petition on grounds that its interest in this proceeding is not direct enough to support its petition for rehearing. The governing statute provides as follows:

Within 20 days after the service by the commission of any decision constituting an order or determination, any party to the proceeding and any other person, aggrieved by the decision and directly affected thereby, may apply to the commission for a rehearing in respect to any matters determined in the decision. . . .

Minn. Stat. § 216B.27, subd. 1 (1986).

The Association is not "directly affected" by the Commission's decision to transfer a portion of Anoka's service territory to NSP. The Association is a generation and transmission cooperative which supplies electricity to retail distribution cooperatives. It does not supply power to Anoka, the cooperative involved in this case. Its interest in this proceeding stems from its concern that any redrawing of assigned service areas could establish a precedent which could eventually affect its customers' demand for electricity. This could in turn affect the Association's business.

The Association's interest in this proceeding is therefore indistinguishable from the interests of all other electric utilities and their suppliers, which are potentially affected by every Commission decision on service area controversies. The Commission believes that a more direct interest is required to support a petition for rehearing. The petition will be denied.

ORDER

1. The application of Cooperative Power Association for Rehearing in the above-captioned matter is hereby denied.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Mary Ellen Hennen
Executive Secretary

(S E A L)